



DEPARTMENT OF ENERGY
National Nuclear Security Administration
Los Alamos Field Office
Los Alamos, New Mexico 87544



MAY 23 2013

Harry Burgess
County Administrator
Los Alamos County
133 Central Park Square
Los Alamos, NM 87544

Dear Mr. Burgess:

The attached Memorandum of Understanding (MOU) on "Mutual Assistance for Incident Response and Resolution" is in effect immediately between the United States Department of Energy (DOE), National Nuclear Security Administration (NNSA), Los Alamos Field Office, the Federal Bureau of Investigation, and Los Alamos County.

We look forward to working with you to ensure the security of the Los Alamos National Laboratory, New Mexico.

If you have any questions or concerns, you may contact Michael Duvall at (505) 667-4662 or John Mitsunaga, Federal Representative, at (505) 606-0036.

Respectfully,



Geoffrey L. Beausoleil
Acting Manager

Enclosure

cc w/enclosure:

Wayne Torpy, Police Chief
Los Alamos Police Department
2500 Trinity Drive, Suite A
Los Alamos, NM 87544

J. Mitsunaga, S&S, NA-00-LA
B. Gentile, S&S, NA-00-LA
Records Center, NA-00-LA

S&S: 120-13

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE LOS ALAMOS FIELD OFFICE,
NATIONAL NUCLEAR SECURITY ADMINISTRATION,
DEPARTMENT OF ENERGY,**

THE FEDERAL BUREAU OF INVESTIGATION

AND

THE LOS ALAMOS COUNTY POLICE DEPARTMENT

**MUTUAL ASSISTANCE
FOR INCIDENT RESPONSE AND RESOLUTION**

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I. INTRODUCTION:

This Memorandum of Understanding (MOU) between the Department of Energy (DOE) National Nuclear Security Administration (NNSA) Los Alamos Field Office, (hereinafter referred to as "NNSA"), the Federal Bureau of Investigation (hereinafter referred to as "FBI") and the Los Alamos County Police Department (hereinafter referred to as "LAPD"), sets forth a cooperative agreement to resolve threats and criminal acts associated with theft, sabotage or hostage attempts against the NNSA, and/or Los Alamos National Laboratory (hereinafter referred to as "LANL"). This MOU facilitates implementation of the Atomic Energy Act of 1954, Presidential Decision Directives (PDD) 39 and 62, National Security PDD 28, Homeland Security Presidential Directive 5 (HSPD-5), the National Response Plan (NRP) and the National Incident Management System (NIMS).

The United States Attorney General, through the FBI, and in cooperation with other federal agencies engaged in activities to protect our national security, is responsible for activities of the law enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States.

II. PURPOSE:

- A. The purpose of this MOU is to:
 - 1. Provide a clear basis for contingency response planning, coordination, and cooperation between LAPD, the FBI and the NNSA within the State of New Mexico to deal with threats or attacks made against the LANL site; and
 - 2. Facilitate effective communication and exchange of relevant information; and
 - 3. Assure timely, reliable, effective decision making and response actions.

III. AUTHORITY:

- A. This MOU is established pursuant to the DOE Organization Act, 42 U.S.C. § 7256 (a), Atomic Energy Act of 1954, PDDs 39 and 62, National Security PDD 28, the Homeland HSPD-5, NRP and NIMS.

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- B. DOE Protective Forces (PF) are authorized under both Title 10, Part 1047 of the Code of Federal Regulations and § 161k, of the Atomic Energy Act of 1954, as amended by 42 U.S.C. § 2201k, to carry firearms and make arrests without warrant in the protection of nuclear materials, facilities and related activities. They are not authorized to investigate actual or alleged violations of the Act.
- C. The FBI, by original and residual jurisdiction, is responsible for investigations of actual or alleged violations and for enforcement of federal statutes with regard to the protection of government property and personnel, domestic and international terrorism, and for related intelligence collection activities within the United States, pursuant to the National Security Act of 1947 and other applicable law, Executive Order 12333 and related Attorney General procedures, and the Atomic Energy Act of 1954, as amended.
- D. The LAPD is responsible for law enforcement activities throughout Los Alamos County including property at the Los Alamos National Laboratory.
- E. 18 U.S.C. § 831 - Prohibited transactions involving nuclear materials.

IV. JURISDICTION FOR CRIMINAL ACTIVITY ON LANL PROPERTY:

- A. The FBI is the law enforcement authority for all areas of LANL for violations of Federal Statutes.
- B. The authority for PF members to make arrests without warrant stems from 161k of the Atomic Energy Act of 1954, as amended, [42 U.S.C. 2201.k.] provides for the authority to carry weapons and make arrests in the protection of DOE assets. 10 CFR Part 1047.4 defines the specific offenses (federal) for which a PF officer may make an arrest under the limited arrest authority. PF personnel armed pursuant to this Act must understand the limits of the offenses covered under the limited arrest authority.
- C. Per Section III. D. above, NNSA recognizes that LAPD is the law enforcement authority within all areas of Los Alamos County (including areas of lands and buildings on LANL property) for violations of State Statutes and County Ordinances for the protection of property and civilians.
- D. If NNSA employees, contractors, or others doing business on LANL property become aware of possible criminal activity, they shall communicate such possible violations to LAPD via emergency (9-1-1) or regular (505-662-8222) phone numbers and/or the FBI as appropriate.

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1. Based on information received regarding possible criminal activity, LAPD will contact appropriate NNSA, LANL, State, and/or Federal authorities.
- E. NNSA and LAPD mutually understand and agree that PF officers do not have authority to enforce State Statutes and County Ordinances at LANL, except to the extent authorized under 10 CFR 1047.4 (d) and (e).

V. LANL SECURITY INCIDENT RESPONSE GUIDELINES:

- A. Immediate Notification: When suspicious activity, a terrorist threat, or an actual incident with a potential or actual terrorist nexus occurs, a representative of NNSA will immediately notify the FBI and LAPD of the incident, and relay the status and location of the situation, to the LANL Emergency Operations Center (EOC), if applicable.
- B. Command and Control: All actions by NNSA, FBI and LAPD will be coordinated through established emergency operations centers according to the guidelines of NIMS. Other responding Federal, State and local law enforcement agencies will be directed to coordinate actions via the EOC. On-scene officers will coordinate and establish appropriate inter-agency communication using available resources or visual and verbal recognition (as directed by their respective commanders).
- C. LAPD Response: Upon notification, LAPD will initiate a response and direct LAPD personnel to provide NNSA, LANL, and/or the PF with requested law enforcement actions within their jurisdictional boundaries.
 1. LAPD will assist NNSA, LANL, and/or the PF and other responding Federal and State, and local law enforcement agencies by providing the following law enforcement actions:
 - a. Providing available resources (e.g. patrol officers and supervisors) to respond to the LANL incident.
 - b. Establishing roadblocks on New Mexico public roadways within their jurisdiction.
 - c. Participating in fresh pursuit operations for the purpose of stopping fleeing felons including those who may have escaped the boundaries of LANL property and who may be escaping on New Mexico public roadways, who may be in possession of sensitive national assets, and who may pose a threat of death or serious bodily harm to the public if not apprehended without delay.

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- d. Providing assistance in the command and control of responding law enforcement personnel to ensure an integrated level of communication is maintained between each responding law enforcement agency.
 2. The execution of any or all of these actions may expose LAPD officers to deadly force situations. The LAPD policy for the use of deadly force will be followed at all times by LAPD officers.
- D. Fresh Pursuit: During fresh pursuit operations, command and control of responding State and local law enforcement agencies will be based upon standard protocol and procedures adhered to by New Mexico law enforcement agencies. NNSA will direct that the PF personnel will immediately relinquish lead control of the fresh pursuit operation once New Mexico law enforcement agencies are on-scene joining the fresh pursuit operation.
1. NNSA will direct that the PF personnel will continue fresh pursuit and participate in all tactical activities employed to stop the suspect(s) vehicle(s) and to apprehend and/or neutralize the adversary threat.
 2. NNSA will request New Mexico law enforcement agencies to lead the pursuit effort due to their recognized training, vehicle capabilities and inter-agency communication assets.
 3. New Mexico law enforcement agencies, when able, will take lead of the fresh pursuit, with PF personnel assuming a support role.
- E. NNSA Responsibilities: When the FBI or LAPD has initiated response to a LANL incident, the NNSA will:
1. Maintain responsibilities as the lead agency for hostile adversary situations involving DOE/NNSA national security interests within the confines of LANL property.
 2. Ensure that all DOE/NNSA contractors and response resources remain available and responsive to fully and immediately support the tactical operations.
 3. Coordinate with Federal, State and local law enforcement agencies for mutual assistance and response to the security incident.
 4. Secure sensitive material and cordon off the perimeter once recovery operations have been completed.
 5. Coordinate LANL contractors and PF to provide LAPD with assistance in establishing roadblocks for events requiring a limited flow of traffic at LANL boundaries.

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6. Either directly or via a LANL contractor, provide LAPD with a clear request for assistance and give an unclassified reason why assistance is necessary.

VI. LANL INCIDENT RESOLUTION:

- A. Upon resolution, safety of personnel and security of any special nuclear material will be the first priorities at the scene. Securing the crime scene and evidence collection will be secondary. Per the NRP, the crime scene and associated evidence involving DOE assets will be secured and controlled by responding FBI personnel. New Mexico law enforcement agencies will control and secure crime scenes and will transfer to Federal law enforcement agencies as appropriate.
- B. PF personnel will assume and maintain primary security and control of special nuclear material until its full recovery and removal can be accomplished.
- C. Detainment and arrest of suspects will be conducted by New Mexico law enforcement agencies, or the PF as applicable, unless other Federal agencies (FBI or U.S. Marshals) are on scene. Arrested suspects will be turned over to Federal authorities (FBI or U.S. Marshals) as soon as practicable.
- D. When other Federal law enforcement authorities [e.g. FBI or United States Marshal] are involved in the apprehension or arrest of a suspected criminal (off LANL property) responding LAPD officers will cooperate with Federal law enforcement authorities to assist in their investigation and arrest of individuals for Federal violations.

VII. ADDITIONAL TERMS AND LIMITATIONS:

- A. This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU authorizes or is intended to obligate the parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.
- B. This MOU is strictly for internal management purposes for each of the parties. It is not legally enforceable and shall not be construed to create any legal obligation on the part of either party. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity.
- C. This MOU in no way restricts any of the parties from participating in any activity with other public or private agencies, organizations, or individuals. Subject to the Freedom of Information Act (5 U.S.C. 552), decisions on disclosure of DOE/NNSA

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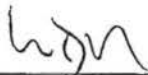
information to the public regarding projects and programs referenced in this MOU shall be made by NNSA following consultation with the other party.

VIII. AMENDMENT AND TERM:

- A. This MOU will be subject to changes and modifications required by the Homeland Security's Final National Response Plan.
- B. This MOU shall become effective on the date when the last party to sign executes the MOU and sends notice to the other parties that it has done so. It shall remain in effect for a 5-year term from the effective date, unless terminated earlier as provided herein. This MOU may be amended by written agreement of the parties. This MOU may be terminated by mutual written agreement of the parties, or by either party upon 60 days written notice to the other parties.
- C. No other agreements existing between the NNSA, the FBI and the LAPD are affected, negated, or superseded by this agreement.
- D. The procedures and protocol in this MOU will be exercised annually with all applicable law enforcement agencies to ascertain the effectiveness and to revise, update or amend existing MOUs as required. The extent or complexity of LAPD participation in the annual exercise shall be coordinated with LAPD.

IX. ACKNOWLEDGEMENT:

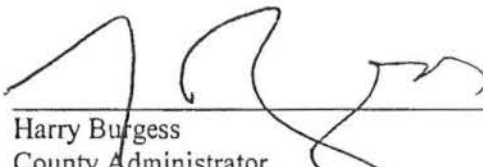
The undersigned agree to this MOU and recognize each agency status as a friendly force identified in the DOE/LANL Site Safeguards and Security Plan.



Wayne Torpy
Police Chief
Los Alamos Police Department

5-13-13

Date



Harry Burgess
County Administrator
Incorporated County of Los Alamos

5/16/13

Date



Carol K.O. Lee
Special Agent-in-Charge
Federal Bureau of Investigation
Albuquerque Division

4/29/13

Date



Juan L. Griego
Acting Manager
Los Alamos Field Office

3/6/2013

Date